

REMARKS/ARGUMENTS

Claims 1, 5 and 7-39 are currently pending in the application. Claims 2-3 are hereby canceled without prejudice. Claims 1-3, 5 and 7-39 were rejected in the Office Action mailed March 18, 2009 (hereinafter referred to as "Office Action").

This amendment is being submitted with a Request for Continued Examination and a petition for a three month extension of time to extend the due date from April 7, 2010 to July 7, 2010. A credit card authorization for the required fees is being submitted herewith. The Commissioner is hereby authorized to charge any additional fees, or credit any refunds, to Chalker Flores, LLP's Deposit Account No. 50-4863.

It is believed that no other fees are due at this time. In view of the following remarks and amendments, applicants respectfully request a timely Notice of Allowance be issued in this case.

Double Patenting

Claims 1, 5 and 7-39 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 5 and 7-39 of copending application number 11/691,257. Applicants respectfully traverse the rejection by submitting a Terminal Disclaimer and the required fee herewith. As a result, applicants respectfully submit that claims 1, 5 and 7-39 are allowable.

Claim Rejections under 35 U.S.C. § 101

The Office Action rejected claims 1, 5 and 7-39 under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicants respectfully submit that the U.S. Supreme Court recently ruled in Bilski v. Kappos that the machine-or-transformation test is not the sole test for patentability for a process. (Opinion at 8). Applicants respectfully submit that claims 1, 5 and 7-39 are allowable prior to any amendments; but, the present invention is performed on a computer so applicants have amended the claims accordingly. As a result, applicants respectfully submit that claims 1, 5 and 7-39 satisfy the machine-or-transformation test and are, therefore, allowable under U.S.C. § 101. Applicants respectfully request that the rejection of claims 1, 5 and 7-39 be withdrawn.

Claim Rejection under 35 U.S.C. § 103(a)

Claims 1, 5, 7-14, 17-30 and 33-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application No. 7,043,449 to Li et al. in view of U.S. Publication No. 2007/0078755 to Olsen et al. Applicants respectfully submit that claims 1- 13, 18-30 and 33-39, as amended, are patentable over the cited references for at least the reasons described below.

First, the Office Action indicated that Li teaches “calculating a first opening value trend for the first time intervals. . . a second opening value trend for the second opening values. . . a first closing value trend for the first time intervals . . . and a second closing value trend for the second intervals. . . . (page 7, lines 25-32). Applicants respectfully submit that the portions of Li cited to support this conclusion do not disclose, teach or suggest calculating both opening value and closing value trends for two time intervals that are not equal to one another. Instead, Li teaches creating candlesticks using the open, close, high and low prices for a single time interval:

FIG. 1-A shows a bar in a conventional Bar Chart while FIG. 1-B shows a bar in a conventional Japanese Candlestick Chart. FIG. 1-B (I) shows the bar when the close price 25 is above the open price 10 while FIG. 1-B (II) shows the close price 25 being below the open price 10. As shown in FIG. 1-B, the rectangle enclosing the open 10 and close 25 price of the bar is called the "body" of the bar. By conventional standard, if the close 25 price is higher than the open 10 price, the body is hollow, as shown in FIG. 1-B (I). If the close price 25 is lower than the open price 10, the body is filled, as shown in FIG. 1-B (II). (col. 2, lines 37-47).

In one of the preferred embodiments, if the underlying price-time chart is a Bar Chart, the appearance of a bar of the present invention is shown in FIG. 2-A. FIG. 2-A (I) shows the case of the close price 25 being above the open price 10 while FIG. 2-A (II) shows the close price 25 being below the open price 10. In both diagrams, the Modal Point 35 is marked as a small colored dot on the central axis of the bar. In FIG. 2-A, only the Active Range 30 but not the Dense Area 45 is displayed. The Active Range 30 is displayed as a rectangle enclosing symmetrically around the central axis (the line connecting the high and low) of the bar with a coloring scheme which distinguishes it from whether the close 25 is above or below the open 10. In one preferred embodiment, if the close 25 is above the open 10, as shown in FIG. 2-A (I), the rectangle is hollow. Otherwise, it is colored, as shown in FIG. 2-A (II). This coloring scheme makes the rectangle resemble the body of the Japanese Candlestick and

thus the resulting bar of the present invention looks familiar to users who are used to viewing the Japanese Candlestick Chart. (col. 2, lines 48-67).

For example, it can establish a warm link using a DDE protocol and submit a DDE data request 145 to the data vendor 125 which then returns the given fetched data 150 via a handshaking mechanism. Afterwards, in step 165, the chart program 110 calculates the relevant intra-market elements using the fetched data 150. Alternatively, the elements can be also fetched from database 115 if they have been calculated and stored previously during a prior chart request in step 160. After fetching the data and calculating the elements, the chart program 110 displays the conventional bar chart of the requested timeframe (Bar chart or Japanese Candlestick) in step 170 and then graphically overlay the corresponding intra-market elements on it in step 175. The fetched chart 135 is then shown to the user 105 via the end user interface 130. Calculated intra-market elements are stored in database 115 for future use. The above calculations are normally finished in less than one second. It should be noted that steps 170 and 175 can be performed by the chart program 115 together. (col. 7, lines 2-21).

The graph in Figure 2-A-I only shows one time interval – days. Moreover, the charts disclosed in Li are not produced by calculating trends. In fact, the word “trend” is never used in Li. As a result, applicants respectfully submit that Li does not disclose, teach or suggest calculating both opening value and closing value trends for two time intervals that are not equal to one another as recited in claims 1, 25 and 39.

Second, the Office Action indicated that Li teaches displaying visual favorable/unfavorable trade indicators based on a comparison of opening value trends to closing value trends for a specific time interval. (page 7, line 36-page 8, line 17). Applicants respectfully disagree because Li does not calculate or compare trends. Figures 2A of Li merely teaches the use of various values (e.g., high, close, active range, modal point, open and low) to create a candlestick for one time interval (e.g., days). Applicants respectfully submit that the indicators in Li are not based on trends. In fact, the word “trend” is never used in Li. As a result, applicants respectfully submit that Li does not disclose, teach or suggest displaying visual favorable/unfavorable trade indicators based on a comparison of opening value trends to closing value trends for a specific time interval as recited in claims 1, 25 and 39.

Third, applicants respectfully submit Li does not disclose, teach or suggest “simultaneously displaying at least a first visual favorable/unfavorable trade indicator for the first time intervals and a second visual favorable/unfavorable trade indicator for the second time intervals” as recited in claims 1, 25 and 39. Instead, Li merely teaches displaying indicators for one time interval at a time (e.g., days in Figure 2-A-I).

Fourth, applicants respectfully submit Li does not disclose, teach or suggest “the first and second visual favorable/unfavorable trade indicators signal whether it will be favorable or unfavorable to execute a trade involving one of the options for the underlying investment for the respective time intervals” as recited in claims 1, 25 and 39.

Fifth, the Office Action indicated that Li does “not teach obtaining market information for an investment underlying one or more options for a time period where first interval is not equal to second interval” and then cited Olsen to cure this deficiency because Olsen allows the user to select the currency pair and the time interval for the graphical display (page 8, lines 18-24). Applicants respectfully submit that Olsen does not cure the deficiencies of Li because Olsen performs calculations and displays information based only on a single time interval selected by the user (Figures 2, 5 and 12). Olsen does not disclose, teach or suggest calculating data for two time intervals and then “simultaneously displaying at least a first visual favorable/unfavorable trade indicator for the first time intervals and a second visual favorable/unfavorable trade indicator for the second time intervals” as recited in claims 1, 25 and 39.

Sixth, applicants respectfully submit that the cited references, either alone or in combination, do not disclose, teach or suggest “simultaneously displaying in real-time at least a first visual favorable/unfavorable trade indicator for the first time intervals and a second visual favorable/unfavorable trade indicator for the second time intervals, wherein the first time intervals are not equal to the second time intervals” as recited in claims 1, 25 and 39.

For at least the foregoing reasons, applicants respectfully submit that Li and Olsen, either alone or in combination, do not disclose, teach or suggest all of the elements recited in claims 1, 25 and 39. Accordingly, applicants respectfully submit that claims 1, 25 and 39 are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103(a). Applicants respectfully request that the rejection of claims 1, 25 and 39 be withdrawn.

Claims 5, 7-24 and 26-38

Applicant respectfully submits that claims 5, 7-24 and 26-38 depend from claims 1 and 25 which are allowable for the reasons stated above, and further distinguish over the cited references. Claims 5, 7-24 and 26-38 are, therefore, allowable under 35 U.S.C. § 103(a). Accordingly, applicant respectfully requests that any rejection of claims 5, 7-24 and 26-38 be withdrawn.

Conclusion

For the reasons set forth above, applicant respectfully requests reconsideration by the examiner and withdrawal of the rejections. Applicant submits that claims 1, 5 and 7-39, as amended, are fully patentable. Applicant respectfully requests that a timely Notice


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Reply to final Office Action of Jan. 7, 2010

of Allowance be issued in this case. If the examiner has any questions or comments, or if further clarification is required, it is requested that the examiner contact the undersigned at the telephone number listed below.

Dated: July 7, 2010

Respectfully submitted,

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